

# HOUSE JOURNAL

---

SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

---

## PROCEEDINGS

NINTH DAY — WEDNESDAY, JANUARY 29, 1997

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 11).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Rodriguez; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Telford.

Absent — Ogden.

The invocation was offered by Reverend James Knox Duncan, St. John Anglican Church, Boerne, as follows:

Almighty God, supreme architect of the universe, we invoke your name this morning not from a sense of our own righteousness, but to thank you for our creation, preservation, and all the blessings of life; and we claim your promise that when two or three are gathered together in your name, you will be in the midst of them. From the primal elements, you created us in your image. You gave us memory, reason, and skill and made us the rulers of creation; your viceroys on earth. Too often, our history confirms, we have sullied your gifts by what we have done and by what we have left undone. Again and again, through prophets and sages, you called us to return to the law, to instill it without fail in our children, and to think on it at home and in the marketplace. In the fullness of time, you sent your incarnate word with a new commandment, the secret of wisdom; that we should balance love for ourselves with love for our neighbor; that we should do unto others as we would have them do unto us; that we should balance justice with mercy for those who repent and confess their faults. Without this, you told us, all law is nothing

worth. We have come to realize that your greatest gifts are not things, but ideas and attitudes. And so, Lord, you who have given us this great state as our heritage, endue our legislators with the wisdom to know and to do your will. May they balance the authority of government with individual freedom. May their work foster industry, learning, and civility throughout the state. Amen.

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for today because of illness:

Telford on motion of Goolsby.

### **CAPITOL PHYSICIAN**

The speaker recognized Representative Naishtat who presented Dr. Elliot Trester of Austin as the "Doctor for the Day."

The house welcomed Dr. Trester and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Cuellar in the chair)

### **HR 57 - ADOPTED**

**(by King, Cuellar, and Raymond)**

Representative King moved to suspend all necessary rules to take up and consider at this time **HR 57**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

**HR 57**, Commemorating the 100th anniversary of the Washington's Birthday Celebration in Laredo.

(Speaker in the chair)

**HR 57** was read and was adopted without objection.

### **INTRODUCTION OF GUESTS**

The speaker recognized Representative Cuellar, who introduced participants of the Washington's Centennial Birthday Celebration:

Evan James Quiros, portraying President George Washington; Mary Leyendecker Quiros, portraying Martha Washington; Noelle Kristina Nimchan, portraying Princess Pocahontas; Jorge Trevino, Jr., portraying the chief; Ana Lisa Benavides, portraying Princess Crystal Moonlight; Hannah Laura Trevino and Mercurio Martinez IV, representing the United States; and, Alina Judith Mena Gordillo and Andres Fernando Ortega Herrera, representing Mexico.

Representative Cuellar also introduced the president of the Washington's Birthday Celebration Association, George Edward MacDonald, Jr., and his wife, Rosie; the president of the Society of Martha Washington, Mary Lamar Killam; the president of the Princess Pocahontas Council, Rosa Benavides; Webb County Judge Mercurio Martinez, Jr.; and, Webb County Commissioner Jorge de la Garza.

**HR 54 - ADOPTED**  
**(by McReynolds)**

Representative McReynolds moved to suspend all necessary rules to take up and consider at this time **HR 54**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 54**, Recognizing January 29, 1997, as Lufkin Day at the State Capitol.

**HR 54** was read and was adopted without objection.

**HR 52 - ADOPTED**  
**(by Clark)**

Representative Clark moved to suspend all necessary rules to take up and consider at this time **HR 52**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 52**, Honoring the teaching staff of St. Mary's Catholic Church School on the occasion of National Appreciation Day For Catholic Teachers.

**HR 52** was adopted without objection.

**HR 44 - ADOPTED**  
**(by Williams)**

Representative Williams moved to suspend all necessary rules to take up and consider at this time **HR 44**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 44**, Congratulating Michael Yantosca on attaining the rank of Eagle Scout.

**HR 44** was adopted without objection.

**HR 51 - ADOPTED**  
**(by Williams)**

Representative Williams moved to suspend all necessary rules to take up and consider at this time **HR 51**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 51**, Congratulating Matthew Vogt on attaining the rank of Eagle Scout.

**HR 51** was adopted without objection.

**HR 56 - ADOPTED**  
**(by Naishtat)**

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 56**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 56**, Recognizing Children's Advocacy Day on January 29, 1997.

**HR 56** was read and was adopted without objection.

**HR 49 - ADOPTED**

(by Solis)

Representative Solis moved to suspend all necessary rules to take up and consider at this time **HR 49**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 49**, Commemorating the 20th anniversary of the Helping One Student To Succeed (HOSTS) program.

**HR 49** was adopted without objection.

**HR 27 - ADOPTED**

(by Hawley)

Representative Hawley moved to suspend all necessary rules to take up and consider at this time **HR 27**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 27**, Honoring Charlie Marshall for his contributions to the Aransas Pass community.

**HR 27** was adopted without objection.

**HCR 4 - ADOPTED**

(by G. Lewis)

Representative G. Lewis moved to suspend all necessary rules to take up and consider at this time **HCR 4**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HCR 4**, Honoring the participants of the Tarrant County Buffalo Soldiers Heritage Program.

**HCR 4** was adopted without objection.

On motion of Representative Kubiak, the names of all the members of the house were added to **HCR 4** as signers thereof.

**HCR 3 - ADOPTED**

(by Ramsay)

Representative Ramsay moved to suspend all necessary rules to take up and consider at this time **HCR 3**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HCR 3**, Recognizing the city of Jefferson as the Bed and Breakfast Capital of Texas.

**HCR 3** was read and was adopted without objection.

**HR 53 - ADOPTED**

**(by Ramsay)**

Representative Ramsay moved to suspend all necessary rules to take up and consider at this time **HR 53**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 53**, Honoring Carol Harrell for her contributions to the citizens of Marion County.

**HR 53** was read and was adopted without objection.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING  
AND REFERRAL TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Speaker pro tempore in the chair)

(Speaker in the chair)

**RULES SUSPENDED**

Representative Junell moved to suspend all necessary rules to allow the Committee on Appropriations subcommittees to meet at 8 a.m. Thursday, January 30, to consider appropriations.

The motion prevailed without objection.

**COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

Appropriations subcommittees, 8 a.m. Thursday, January 30, appropriations committee room and subcommittee rooms.

Appropriations, Corrections, Criminal Jurisprudence, and Juvenile Justice and Family Issues, on adjournment today, appropriations committee room.

**ADJOURNMENT**

Representative Eiland moved that the house adjourn until 10 a.m. tomorrow.

The motion prevailed without objection.

The house accordingly, at 10:54 a.m., adjourned until 10 a.m. tomorrow.

---

**ADDENDUM**

---

**REFERRED TO COMMITTEES**

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

**List No. 1**

**HB 101** (by Gray and G. Lewis), Relating to the adoption of the Emergency Management Assistance Compact.

To State Affairs.

**HB 102** (by Gray, Greenberg, Van de Putte, McCall, et al.), Relating to minimum coverage under certain health benefit plans for inpatient stays and postdelivery care following the birth of a child.

To Insurance.

**HB 103** (by Gray), Relating to the application of the law of another state in an action under the Uniform Interstate Family Support Act.

To Juvenile Justice & Family Issues.

**HB 104** (by Greenberg, Allen, Culberson, Talton and Danburg), Relating to the punishment and eligibility for release on parole of criminal defendants who commit certain sexual offenses and sexually assaultive offenses.

To Corrections.

**HB 105** (by Serna, Pickett, and G. Lewis), Relating to regulating customer access to aerosol paint and creating an offense for the possession of aerosol paint by a person younger than 18 years of age; providing penalties.

To Juvenile Justice & Family Issues.

**HB 106** (by Hunter), Relating to the application of the sales and use tax to tangible personal property held for export.

To Ways & Means.

**HB 107** (by Giddings), Relating to specialized license plates to support an elementary student reading program.

To Transportation.

**HB 108** (by Giddings), Relating to instruction in cardiopulmonary resuscitation for public school students.

To Public Education.

**HB 109** (by Giddings), Relating to construction contract provisions, construction trust funds, and the creation of and management policies applicable to a construction account created to hold funds associated with a construction contract; providing penalties.

To Business & Industry.

**HB 110** (by Giddings, et al.), Relating to the sale by certain home-rule municipalities of land sold pursuant to foreclosure of an ad valorem tax lien.  
To Urban Affairs.

**HB 111** (by Giddings, et al.), Relating to the liability of certain municipalities for a claim arising from land acquired at a sale following the foreclosure of a lien held by the municipality.  
To Urban Affairs.

**HB 112** (by Giddings, et al.), Relating to the resale of certain land acquired by certain political subdivisions.  
To Urban Affairs.

**HB 113** (by Hunter), Relating to the issuance of specially designed license plates for certain classic motor vehicles.  
To Transportation.

**HB 114** (by Cuellar), Relating to an inmate's liability for the inmate's cost of confinement in a county jail or the institutional division.  
To Corrections.

**HB 115** (by Tillery and McClendon), Relating to the failure of certain persons to attend a court hearing involving a child; providing a criminal penalty.  
To Juvenile Justice & Family Issues.

**HB 116** (by Tillery), Relating to access of certain vehicles to high occupancy vehicle lanes.  
To Transportation.

**HB 117** (by Telford), Relating to creating the offense of false disparagement about the AIDS or HIV status of an individual.  
To Criminal Jurisprudence.

**HB 118** (by Hirschi, et al.), Relating to increased civil penalties for deceptive trade practices against elderly consumers.  
To Civil Practices.

**HB 119** (by Hirschi, Maxey, et al.), Relating to disclosure of ingredients in cigarettes and tobacco products.  
To State Affairs.

**HB 120** (by Hirschi), Relating to a physician's treatment of acute or chronic pain.  
To Public Health.

**HB 121** (by Delisi), Relating to the expulsion or placement in an alternative education program of a public school student who commits an assault.  
To Public Education.

**HB 122** (by Corte), Relating to speed limits for certain vehicles.  
To Transportation.

**HB 123** (by Wolens), Relating to the use of protective orders.  
To State Affairs.

**HB 124** (by Moffat), Relating to the continuation of the Texas Turnpike Authority as the North Texas Tollway Authority.

To Transportation.

**HB 125** (by Danburg), Relating to the prosecution of the offense of sexual assault.

To Criminal Jurisprudence.

**HB 126** (by Danburg), Relating to the time of the day and the day of the week on which a correctional facility may release an inmate.

To Corrections.

**HB 127** (by Pitts), Relating to the eligibility of certain criminal defendants for jury-ordered community supervision.

To Criminal Jurisprudence.

**HB 128** (by Pitts), Relating to the authority of the governing body of a municipality to declare a speed limit for a farm-to-market or ranch-to-market road located in the municipality.

To Transportation.

**HB 129** (by Pitts), Relating to the right of a person to inspect appraisal records relating to the appraisal of the person's property.

To Ways & Means.

**HB 130** (by Pitts), Relating to the authority of the commissioners court of a county to alter speed limits on county roads.

To Transportation.

**HB 131** (by Madden), Relating to political contributions made in connection with certain judicial offices.

To Elections.

**HB 132** (by Hochberg), Relating to the standard of alcohol concentration used in defining the offense of driving while intoxicated for persons younger than 21 years of age.

To Criminal Jurisprudence.

**HB 133** (by Hochberg), Relating to the standard of alcohol concentration used in defining the offense of driving while intoxicated.

To Criminal Jurisprudence.

**HB 134** (by Hochberg and Naishtat), Relating to the punishment for and the jurisdiction over certain traffic offenses committed by minors.

To Juvenile Justice & Family Issues.

**HB 135** (by West and Bailey), Relating to designating peace officers to serve as notaries public.

To Public Safety.

**HB 136** (by West), Relating to prosecution of the offense of tampering with or fabricating physical evidence.

To Criminal Jurisprudence.



**HB 137** (by West), Relating to the qualifications of certain charitable organizations for an exemption from ad valorem taxation.

To Ways & Means.

**HB 138** (by Woolley and Greenberg), Relating to authorization of the creation of Texas growth fund II.

To Pensions & Investments.

**HB 139** (by Kamel), Relating to exempting certain better business bureaus from the sales and use tax.

To Ways & Means.

**HB 140** (by Kamel), Relating to standards for public school construction.

To Public Education.

**HB 141** (by Kamel and Janek), Relating to the mandatory transfer to criminal court of children engaging in criminal behavior involving the use of a firearm.

To Juvenile Justice & Family Issues.

**HB 142** (by Kamel and Goolsby), Relating to the authority of a parole officer to carry certain weapons.

To Public Safety.

**HB 143** (by Wilson), Relating to the allocation of certain county ad valorem taxes to municipalities in certain counties.

To Ways & Means.

**HB 144** (by Wilson), Relating to required multicultural course credit at certain public institutions of higher education.

To Higher Education.

**HB 145** (by Wilson), Relating to prohibiting hospital employees and medical staff from wearing surgical attire or hospital uniforms on the premises of certain food-related businesses.

To Public Health.

**HB 146** (by Wilson), Relating to the transfer to the state of Paul Quinn College to become an institution of higher education under the governance of the board of regents of Texas Southern University.

To Higher Education.

**HB 147** (by Wilson), Relating to creation of Silver Quill awards to recognize individuals who have demonstrated outstanding leadership in the field of public education.

To Public Education.

**HB 148** (by Wilson), Relating to the distribution of condoms at public and private institutions of higher education.

To Public Health.

**HB 149** (by Wilson), Relating to the award of attorney's fees to a property owner in certain ad valorem tax appeals.

To Ways & Means.

**HB 150** (by Wilson), Relating to jurisdiction over the Alamo.

To State Recreational Resources.

**HB 151** (by Wilson), Relating to capital murder by a peace officer, jailer, or guard of a person in custody.

To Criminal Jurisprudence.

**HB 152** (by Wilson), Relating to certain requirements pertaining to the receipt of child support.

To Juvenile Justice & Family Issues.

**HB 153** (by Wilson), Relating to the suspension of a student from participation in extracurricular activities.

To Public Education.

**HB 154** (by Wilson), Relating to human rights instruction in public school classes.

To Public Education.

**HB 155** (by Greenberg), Relating to the listing and registration of certain child-care services; providing penalties.

To Human Services.

**HB 156** (by Driver), Relating to prohibiting contact with the victim as a mandatory condition of parole or mandatory supervision for certain offenders.

To Corrections.

**HB 157** (by Driver), Relating to the penalty for tampering with certain governmental records.

To Criminal Jurisprudence.

**HB 158** (by Driver), Relating to repealing the exemption of certain foreign students from paying tuition charged by public institutions of higher education.

To Higher Education.

**HB 159** (by Driver), Relating to assignments by certain recipients of state assistance of lottery prizes to the state and collection of those assignments.

To Human Services.

**HB 160** (by Rodriguez), Relating to the establishment of an advisory committee to the Texas Workforce Commission on apprenticeship and job-training issues.

To Economic Development.

**HB 161** (by Rodriguez and McClendon), Relating to punishment for the offense of arson.

To Criminal Jurisprudence.

**HB 162** (by Krusee), Relating to the powers of the Lower Colorado River Authority in Williamson County.

To Natural Resources.

**HB 163** (by Maxey), Relating to accelerated payment or assignment of life insurance benefits under the Texas Employees Uniform Group Insurance Benefits Act.

To Pensions & Investments.

**HB 164** (by Maxey), Relating to tests for human immunodeficiency virus infection on delivery of a child.

To Public Health.

**HB 165** (by Naishtat, Coleman, Danburg, et al.), Relating to creating the offenses of the unlawful transfer to or purchase of a handgun by a person who has not taken a handgun proficiency and safety course.

To Public Safety.

**HB 166** (by Wilson, et al.), Relating to the creation of the housing for the homeless fund within the Texas Department of Housing and Community Affairs; granting the authority to issue bonds; and the allocation of certain sales and use tax revenue.

To Financial Institutions.

**HB 167** (by Wilson), Relating to the establishment of residential living facilities for certain youth.

To Human Services.

**HB 168** (by Wilson), Relating to foster care for a child who resides with a relative.

To Juvenile Justice & Family Issues.

**HB 169** (by Wilson), Relating to notices and promises to appear in certain traffic offenses.

To Public Safety.

**HB 170** (by Driver), Relating to the impoundment of the motor vehicle of a person convicted of certain offenses relating to the operation of a motor vehicle while intoxicated and of certain persons convicted of the offense of driving while a driver's license is suspended.

To Criminal Jurisprudence.

**HB 171** (by Driver), Relating to the penalty for a false application for a driver's license or a certificate issued by the Department of Public Safety.

To Public Safety.

**HB 172** (by Nixon), Relating to contract claims against a unit of state government.

To Civil Practices.

**HB 173** (by Nixon), Relating to the procedures for adoption of an annual ad valorem tax rate by the governing body of a taxing unit.

To Ways & Means.

**HB 174** (by Nixon), Relating to the use of a state jail felony conviction to enhance the punishment for subsequent felony offenses.

To Criminal Jurisprudence.

**HB 175** (by Nixon), Relating to the offense of barratry.

To Criminal Jurisprudence.

**HB 176** (by Moreno), Relating to the establishment in certain municipalities of boards to receive and act on complaints of police misconduct.

To Urban Affairs.

**HB 177** (by Solomons), Relating to the sales tax on the repair, remodeling, maintenance, and restoration of certain tangible personal property.

To Ways & Means.

**HB 178** (by Solomons), Relating to the punishment for and sentencing of a defendant convicted of felony deadly conduct.

To Criminal Jurisprudence.

**HB 179** (by Maxey and Coleman), Relating to the employment of a dentist by a nonprofit health organization that primarily provides services to individuals who have AIDS or the human immunodeficiency virus.

To Public Health.

**HB 180** (by Gray, McCall, Hernandez, Greenberg, et al.), Relating to access to certain obstetric or gynecological health care under a health benefit plan.

To Insurance.

**HB 181** (by Longoria), Relating to a requirement that school districts open school buildings after school hours for recreational purposes and tutoring.

To Public Education.

**HB 182** (by Longoria), Relating to commissions for certain retired peace officers and the authority of those officers to carry certain weapons.

To Public Safety.

**HB 183** (by Wilson), Relating to donations to state agencies by court-appointed attorneys.

To State Affairs.

**HB 184** (by Wilson), Relating to requiring the editorial governing boards and staff of student publications at public institutions of higher education to reflect the diversity of this state.

To Higher Education.

**HB 185** (by Wilson), Relating to the punishment for obscenity offenses involving songs or poetry.

To Criminal Jurisprudence.

**HB 186** (by Gray), Relating to the requirement that the person in charge of a railroad locomotive sound a whistle, air whistle, or air siren and ring a bell at the intersection of the railway and certain roads and streets.

To Transportation.

**HB 187** (by Tillery), Relating to access of certain vehicles to high occupancy vehicle lanes.

To Transportation.

**HB 188** (by Serna), Relating to state or federal matching funds.

To Appropriations.

**HB 189** (by B. Turner), Relating to issuance of special license plates for a vehicle used to transport a person with a disability.

To Transportation.

**HB 190** (by B. Turner), Relating to prohibiting certain entities from condemning property in certain circumstances.

To Land & Resource Management.

**HB 191** (by B. Turner), Relating to legislative review and gubernatorial suspension of certain rules of state agencies.

To State Affairs.

**HB 192** (by B. Turner), Relating to the criminal offense of trespass on agricultural lands.

To Agriculture & Livestock.

**HB 193** (by B. Turner), Relating to a refund of certain taxes paid on motor fuel by the holder of a liquefied gas tax decal permit.

To Ways & Means.

**HB 194** (by B. Turner), Relating to the enforcement and transfer of conservation easements.

To Land & Resource Management.

**HB 195** (by B. Turner, et al.), Relating to the punishment of theft committed against elderly individuals.

To Criminal Jurisprudence.

**HB 196** (by Maxey), Relating to the issuance of a contact lens prescription and a patient's right of access to that prescription.

To Public Health.

**HB 197** (by West and G. Lewis), Relating to a late application by certain charitable organizations for an exemption from ad valorem taxation.

To Ways & Means.

**HB 198** (by Nixon, et al.), Relating to holding an election in each county on whether certain sexually oriented businesses should be allowed to operate in the county.

To State Affairs.

**HB 199** (by Howard, et al.), Relating to State Board of Education rules concerning textbooks.

To Public Education.

**HB 200** (by Howard, et al.), Relating to selection of textbooks by school districts.

To Public Education.

---

## APPENDIX

---

### SENT TO THE GOVERNOR

January 28 - **HCR 28**

**Page 180**

**BLANK**